

United States
Circuit Court of Appeals

For the Ninth Circuit. 7

ELI ROUSSEAU,

Appellant,

vs.

LUTHER WEEDIN, as Commissioner of Immi-
gration for the District of Washington,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Western District of Washington,
Northern Division.

FILED
AUG 10 1922
F. D. MONCKTON,
CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

ELI ROUSSEAU,

Appellant,

vs.

LUTHER WEEDIN, as Commissioner of Immi-
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Upon Appeal from the United States District Court
for the Western District of Washington,
Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Counsel.

Messrs. POE & FALKNOR, Attorneys for Petitioner and Appellant,
405 New York Building, Seattle, Washington.

THOMAS P. REVELLE, Esq., United States Attorney, Attorney for Appellee,
310 Federal Building, Seattle, Washington.

JOHN A. FRATER, Esq., Assistant United States Attorney, Attorney for Appellee,
310 Federal Building, Seattle, Washington.

[1*]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 6699.

Petition for Writ of Habeas Corpus.

In the Matter of the Application of ELI ROUSSEAU for a Writ of Habeas Corpus.

To the Honorable Judge of the Above-entitled Court:

Your petitioner, Eli Rousseau, respectfully shows and represents to this Honorable Court:

I.

That he is unlawfully and unjustly detained by Luther Weedon, United States Commissioner of Immigration of the Port of Seattle, at the immigra-

*Page-number appearing at foot of page of original certified Transcript of Record.

tion detention station at Seattle, Washington, under and by virtue of a warrant issued by the Secretary of Labor directed to the said commissioner to deport your petitioner to Canada. That your petitioner has exhausted his appeal from said order of deportation.

II.

That your petitioner is held for deportation under the United States immigration laws on the following grounds:

(a) That he has been convicted of and admits having committed a felony or other crime or misdemeanor involving moral turpitude prior to his last entry to the United States.

(b) That he has been found connected with the management of a house of prostitution or other place habitually frequented by prostitutes, or where prostitutes gather.

(c) That he has been found receiving, sharing in, or deriving benefit from the earnings of a prostitute. [2]

(d) That he was a person likely to become a public charge at the time of his entry.

That there is no evidence whatsoever contained in the record of the hearing given your petitioner to substantiate or support a deportation on the above-named grounds.

III.

Your petitioner further alleges that the hearing given him by the immigration authorities to determine whether he was liable to deportation was unfair, and unjust in that at the time of said hear-

ing your petitioner was confined in the Washington State Penitentiary at Walla Walla, and was at said time and place unable to obtain advice or to procure counsel; and in this, that your petitioner was unfairly and unjustly charged at said hearing with breaches of the immigration act which were not contained in the warrant of arrest; and in this, that your petitioner was given no chance or opportunity at said hearing to explain his testimony or give additional information that would have cleared him of the charges made against him, and in this; that evidence which was hearsay and which was incompetent, irrelevant, and immaterial, and which was highly prejudicial to your petitioner, was formally introduced at said hearing and made a part of the record thereof.

IV.

Your petitioner further alleges that he is a native of Canada, of the age of seventy-two years; that he came to the United States from Canada when he was eight years old and has since then continuously made the United States his home; that at the age of about fifteen years [3] while employed in the mines at Marquette, Michigan, he made application for citizenship; that your petitioner came to the State of Washington in 1883; that since then your petitioner made the state of Washington his home and has never since given up said State as his residence and domicile; that your petitioner has since the first entry into the State of Washington voted continuously in said state with the exception of the last eight years of his residence therein, and has held

public office therein; that he has always been informed that he was and believed himself to be a citizen of the United States.

V.

That on the — day of —, 19—, your petitioner was convicted in the Superior Court of the State of Washington, in and for Snohomish County, of the crime of being a jointist, and that said crime is not a crime involving moral turpitude; that pending an appeal from said conviction your petitioner, who was at the time on bail, went to Vermont and then to Massachusetts and New York for the purpose of visiting relatives in those states; that while so visiting your petitioner was informed by his attorney that his appeal had been lost in the Supreme Court of the State of Washington, and your petitioner immediately thereupon returned to Everett, Washington, via the Canadian Pacific Railroad through Canada to meet his sentence; that your petitioner entered the United States through Plaine, Washington, on so returning and at said time and place informed the immigration officials in answer to their inquiries that he was a citizen of the United States as he well and truly believed himself to be; that your petitioner [4] at the time he left the eastern part of the United States as aforesaid, to fulfill the obligations of his bond, as aforesaid, had as his destination Everett, Washington, and travelled through Canada merely as the quickest and most efficient way of reaching his destination; and that such an entrance into the United States was not an “entry” in contemplation

of the immigration laws; that your petitioner thereupon was taken to the Washington State penitentiary at Walla Walla where he served the sentence imposed upon him for his aforesaid conviction.

VI.

That the said Luther Weedin, United States Commissioner of Immigration at Seattle, Washington, is threatening to and will deport your petitioner to Canada on the 20th day of April, 1922, unless a writ of habeas corpus is caused to be issued herein, requiring the said United States Commissioner to deliver up your petitioner to await the further order of this court.

WHEREFORE, your petitioner prays: That a writ of habeas corpus issue out of the above-entitled Commissioner of Immigration at Seattle, Washington, to the end that your petitioner may be discharged from said illegal restraint and unlawful arrest;

(2) That pending a hearing upon an application for said writ of habeas corpus, that the said Luther Weedin, United States Commissioner of Immigration, at Seattle, Washington, and his deputies, be hereby enjoined and restrained from deporting your petitioner from Seattle to the Dominion of Canada; [5]

(3) That an order to show cause issue forthwith directed to the said Luther Weedin, United States Commissioner of Immigration, at Seattle, Washington, requiring him to be and appear in the above-entitled court, at a time to be fixed by

this honorable court to show cause, if any he may have, why said writ of habeas corpus may not be granted.

POE and FALKNOR,
Attorneys for Petitioner.

Office & P. O. Address:
405 New York Block,
Seattle, Washington.

State of Washington,
County of King,—ss.

Eli Rousseau, being first duly sworn on oath deposes and says:

That he is the petitioner named in the above-entitled cause, that he has read the foregoing petition, knows the contents thereof, and believes the same to be true.

ELI ROUSSEAU.

Subscribed and sworn to before me this 20th day of April, 1922.

[Notarial Seal] DeWOLFE EMERY,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 20, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [6]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

No. 6699.

In the Matter of the Application of ELI ROUS-
SEAU for a Writ of Habeas Corpus.

Order to Show Cause.

This matter having come on regularly in its order to be heard on the application of the petitioner Eli Rousseau for the issuance of a Writ of Habeas Corpus herein, and,

It appearing from said petition that the said Eli Rousseau is illegally held under color of authority of the Federal government by Luther Weedin, United States Commissioner of Immigration at Seattle, Washington, and said petitioner having prayed that a restraining order issue herein directed to the said commissioner of immigration restraining him and his deputies from deporting the said petitioner until further order of this court;

NOW THEREFORE, it is hereby ordered that Luther Weedin, the United States Commissioner of Immigration, at Seattle, Washington, and his deputies be and they are hereby restrained from deporting the said Eli Rousseau to the Dominion of Canada until further order of this court and,

It is further ordered that the said commissioner be and he is hereby required to appear in the District Court of the United States for the Western District of Washington, Northern Division, on the

24th day of April, 1922, at 10:00 o'clock A. M., and show cause why a writ of habeas corpus shall not issue herein.

Done in open court this 20th day of April, 1922.

JEREMIAH NETERER,

Judge. [7]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 20, 1922. F. M. Harshberger Clerk. By S. E. Leitch, Deputy. [8]

United States District Court, Western District of Washington, Northern Division.

May, 1922, Term.

No. 6699.

In the Matter of the Application of ELI ROUSSEAU for a Writ of Habeas Corpus.

Return to Order to Show Cause

To the Honorable JEREMIAH NETERER,
Judge of the above-entitled court:

Now comes the respondent, Luther Weedin, United States Commissioner of Immigration for the District of Washington, with his office at the port of Seattle, Washington, and for answer and return to the order to show cause herein requiring the said respondent to show cause why a writ of habeas corpus should not be granted herein, says that he here produces the body of Eli Rousseau, the person

named in the petition for said writ and said order, in obedience to the command and direction of the said order to show cause;

And for further answer and return to said order avers that he is detaining in his custody the said Eli Rousseau for deportation from the United States as an alien Canadian person not entitled to admission under the laws of the United States and subject to deportation under the laws of the United States, the said Eli Rousseau having been heretofore arrested and detained by this respondent under a warrant of arrest issued by the Assistant Secretary of Labor of the United States, and thereafter having been ordered deported by said Assistant Secretary of Labor; said order for deportation being in the form of a warrant of deportation dated February 15th, 1921, said warrant of deportation being in the words and figures following, to wit:
[9]

Warrant—Deportation of Alien.

UNITED STATES OF AMERICA.

Department of Labor.

Washington.

No. 54904/165.

Incl. 6727

To JOHN H. CLARK, U. S. Commissioner of Immigration, Montreal, Canada.

WHEREAS, from proofs submitted to me, after due hearing before immigrant inspector McKendree C. Faris, held at Walla Walla, Wash., I have become satisfied that the alien ELI or JOSEPH

ROUSSEAU, who landed at the port of Blaine, Wash., on the 12th day of October, 1920, has been found in the United States in violation of the immigration act of February 5, 1917, to wit:

That he has been convicted of and admits having committed a felony or other crime or misdemeanor involving moral turpitude prior to his entry into the United States; that he has been found connected with the management of a house of prostitution or other place habitually frequented by prostitutes, or where prostitutes gather; that he has been found receiving, sharing in, or deriving benefit from the earnings of a prostitute; and that he was a person likely to become a public charge at the time of his entry, and may be deported in accordance therewith:

I, LOUIS F. POST, Assistant Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Canada, the country whence he came, at the expense of the appropriation: "Expenses of Regulating Immigration, 1921."

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 15th day of February, 1921.

LOUIS F. POST,

Assistant Secretary of Labor.

said order to this respondent being in the form of a letter from the Assistant Commissioner General, approved by the Assistant Secretary of Labor, in the words and figures following, to wit: [10]

U. S. DEPARTMENT OF LABOR.

Bureau of Immigration,
Washington, D. C.

No. 54904/165

February 15, 1921.

Commissioner of Immigration,
Seattle, Wash.

Sir:

The Bureau acknowledges the receipt of your letter of Jan. 13th, No. 37012/739. transmitting record of hearing accorded the alien ELI or JOSEPH ROUSSEAU, who entered at the port of Blaine, Wash., on October 12, 1920.

After a careful examination of the evidence submitted in this case, the Department is of opinion that the alien is in the United States in violation of law. You are therefore directed to cause him to be taken into custody and conveyed to such point in Canada as the U. S. Commissioner of Immigration, Montreal, Canada, may designate, the expenses incident to such conveyance, including the employment of an attendant to assist in delivery, if necessary, at a nominal compensation of \$1.00 and expenses both ways, being authorized, payable from the appropriation "Expenses of Regulating Immigration, 1921."

Execution of the warrant of deportation should be deferred until the alien is released from prison by the proper authorities.

Respectfully,
ALFRED HAMPTON,
Assistant Commissioner General.

Approved:

LOUIS F. POST,
Assistant Secretary.

Inclose W. D. No. 6727.

RN.

Respondent hereto attaches the original record, order, decision and exhibits, both on the hearing before the Immigrant Inspector, at Walla Walla, Washington, and the record of the submission of said hearing to the Secretary of Labor, which papers are hereby made a part and parcel of this return the same as if copied herein in full. [11]

WHEREFORE respondent prays that said writ of habeas corpus be denied.

LUTHER WEEDIN,
United States Commissioner of Immigration.

United States of America,
Western District of Washington,
Northern Division,—ss.

Luther Weedin, being first duly sworn, on his oath deposes and says: That he is United States Commissioner of Immigration, named in the foregoing return; that he has read the said return and knows the contents thereof, and that he believes the same to be true.

LUTHER WEEDIN.

Subscribed and sworn to before me this 19th day of May, 1922.

[Notarial Seal]

D. L. YOUNG,
Notary Public.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. May 22, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [12]

In the United States District Court for the Western District of Washington, Northern Division.

No. 6699.

In Re Application of ELI ROUSSEAU, for a Writ of Habeas Corpus.

Decision.

Filed May 25, 1922.

The petitioner was born in Saint Reni, Province of La Prarie, Quebec Canada; is French, he came to Washington Territory about forty years ago, settled in Snohomish County, assumed he was a citizen and voted before the Territory was admitted as a state, and after admission until ten or twelve years ago, when his naturalization papers were examined, and he was unable to produce them. He came with his Uncle when he was nine years of age to Massachusetts, and has lived in the United States practically all the time since. He was convicted in the State Court of being a "Joinist" and was sentenced to the penitentiary at hard labor from one to five years. He appealed to the Supreme Court of the State, pending a hearing he was released on bond, and while so released visited the home of his birth for a brief period. The judgment was af-

firmed and upon being advised he returned to the United States, and entered upon the service of his sentence. Returning he entered at the Port of Blaine reporting to the proper officers, and claiming that he was a citizen. A Warrant of arrest was issued charging the petitioner with entering the United States without inspection, and at the time of his entry was a person likely to become a public charge, and that he has been convicted of a crime involving moral turpitude prior to his entry. After a summary hearing he was ordered deported, and a warrant of deportation issued February 15, 1921. The warrant of deportation reciting

“That he has been convicted of, and admits having committed a felony or other crime or misdemeanor involving moral turpitude prior to his entry into the United States; that he has been found connected with the management of a house of prostitution, of other places habitually frequented by prostitutes, or where prostitution gather; that he has been found receiving, sharing [13] in, or deriving benefit from the earnings of a prostitute; and that he was a person likely to become a public charge at the time of his entry.”

At the time of the summary hearing the petitioner was without counsel. He was advised that he had a right to counsel, but declined it. During the examination the examination inspector preferred a number of additional charges, and following each charge asked the petitioner whether he desired counsel. There was also submitted an affidavit from

one Carrie Scott Karris against the petitioner, and a letter written to the Acting Commissioner with relation to conduct of petitioner. The petitioner claims that he was denied a fair trial, and that there is no testimony to warrant his deportation.

THOMAS P. REVELLE, U. S. Attorney, and
JOHN FRATER, Ass't U. S. Attorney, Attor-
neys for the United States.

POE & FALKNOR, Attorneys for the Petitioner.

NETERER, D. J.—All of the grounds set forth in the warrant of deportation, except the first, may be disregarded. The testimony shows that the petitioner has property in Mukilteo worth \$10,000. He was therefore not likely to become a public charge, which means, one likely to be an occupant of an alms house for want of means of support, *Gegiow v. Uhl*, 239 U. S. 60; or likely to be sent to an alms house and supported at public expense, *ex parte Mitchell*, 256 Fed. 229. *Howe v. Ex Rel Savitsky*, 247 Fed. 292; *NG Fung He v. White*, Immigration Com'r, 266 Fed. 765. Any testimony relating to the other grounds of deportation show such act, if any, to have taken place long prior to his entry to the United States, in October 1920. The petitioner strongly emphasizes the fact that being convicted of a "joinist" is not such a crime as is denounced by the Immigration Act. The language of the act is: [14]

"Persons who have been convicted, or have admitted having committed a felony or other crime or misdemeanor moral turpitude."

“Turpitude,” is defined, Bouvier, “Everything done contrary to justice, honesty, modesty, or good morals, is said to be done with turpitude;” “Moral,” Webster, “The doctrine or practice of the duties of life pertaining to those intentions and actions of which right and wrong, virtue and vice, are predicated, or to the rules by which such intentions and action ought to be directed; relating to the practice, manners, or conduct of men as social beings in relation to each other, as respects right and wrong, so far as they are properly subject to rules.” Moral Turpitude, has been defined as an act of baseness, vileness, or depravity in private and social duties which man owes his fellow men, or to society in general, contrary to the acts and customary rules of right and duties between man and man. Vol. 5, Words & Phrases, p. 4580. Moral Turpitude, is “depravity in the private social duties which a man owes to his fellow man or to society in general. An act contrary to the accepted and customary rules of right and duty between man and man.” 20 Am. & Eng. Ency of Law, p. 872. A “Joinist” is described by Sec. 11, Laws of Wash. 1917, p. 60 being the “Liquor” statute of Washington, as a person who conducts any place for the unlawful sale of intoxicating liquor; and on conviction is deemed guilty of a felony and punished by imprisonment not less than one or more than five years. A felony under the Federal laws is an offense which may be punished by death or imprisonment for a term exceeding one year, Sec. 335 Penal Code. It would seem that the laws of Wash-

ington, *supra*, establish a rule of right and fix a duty between man and man, and being a "joinist" transgresses this established rule of the state, and a violation of this rule is, by statute, made a felony punishable by confinement in the State Penal Institution. The Immigration [15] act, *supra*, however, makes a conviction of felony cause of exclusion.

The practice of preferring a number of charges against an individual by an examining inspector during a summary hearing is one that should be discouraged. It is not in harmony with the thought of fair dealing, as also the admissions and consideration of *ex parte* affidavits and letters, depriving the accused the privilege of cross-examining. The affidavit and letter cannot in any sense have relation to the conclusion here reached, or any bearing upon it, and hence do not in this case derogate against a fair trial upon the charge of conviction of a felony.

The writ is denied.

NETERER,
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. May 25, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy Clerk. [16]

United States District Court, Western District of
Washington, Northern Division.

No. 6699.

In the Matter of the Application of ELI ROUS-
SEAU for a Writ of Habeas Corpus.

Order Denying Petition for Writ of Habeas Corpus.

This matter having come on for hearing on the order to show cause on the 22d day of May, 1922, and on May 26th, 1922, this court rendered an opinion denying the writ in the above-entitled cause, and it appearing to the court from the files and records herein that the petitioner has had a fair hearing by the Department of Immigration on the matter of deportation,

IT IS HEREBY ORDERED that petition for writ of habeas corpus be, and the same is hereby, denied.

Dated this 3d day of July, 1922.

JEREMIAH NETERER,
United States District Judge.

O. K. as to form,

POE and FALKNOR.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 3, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [17]

United States District Court, Western District of
Washington, Northern Division.

May, 1922, Term.

No. 6699.

In the Matter of the Application of ELI ROUS-
SEAU for a Writ of Habeas Corpus.

**Notice of Appeal and Petition for Allowance
Therefor.**

The above-named petitioner, Eli Rousseau, conceiving himself aggrieved by the order and decree made and entered herein on the 3d day of July, 1922, dismissing the petition for a writ of habeas corpus hereinbefore filed, and declaring that the petitioner has had a fair hearing by the Department of Immigration on the matter of his deportation,

DOES HEREBY APPEAL from said order and decree to the United States Circuit Court of Appeals, 9th Circuit, for the reasons specified in the assignment of errors which is filed herewith, and he prays this appeal may be allowed and that a transcript of the record proceedings and papers upon which the order was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the 9th Circuit.

POE and FALKNOR,
Attorneys for Petitioner.

Office & P. O. Address:

405 New York Building,
Seattle, Washington.

Received a copy of the within notice this 3d day of July, 1922.

THOS. P. REVELLE,
Attorney for United States,
By E. D. D.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division, July 3, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [18]

United States District Court, Western District of
Washington, Northern Division.
May, 1922, TERM.

No. 6699.

In the Matter of the Application of ELI ROUS-
SEAU for a Writ of Habeas Corpus.

Assignment of Errors

Comes now Eli Rousseau, the above-named petitioner, and makes and specifies an assignment of errors to be relied upon by him on his Appeal herein;

I.

The Court erred in dismissing the petition for a Writ of Habeas Corpus.

II.

The Court erred in holding that petitioner was not deprived of a fair hearing by reason of the fact that he was confined in the Washington State Penitentiary at the time of such hearing.

III.

The Court erred in holding that petitioner was not deprived of a fair hearing by reason of the fact that the examining inspector preferred charges at said hearing which were not contained in the warrant of arrest.

IV.

The Court erred in holding that petitioner was not deprived of a fair hearing by reason of the consideration of *ex parte* affidavits and letters as a part of the evidence submitted at said hearing; and by reason of the fact that no opportunity was given petitioner at said hearing to offer testimony explanatory to that elicited from him by the examining inspector. [19]

V.

The Court erred in holding that petitioner had been convicted of a crime involving moral turpitude prior to his entry to the United States on October 12, 1920.

VI.

The evidence is insufficient to sustain the final order and judgment of deportation entered herein on the — day of July, 1922.

VII.

For other errors appearing upon the record.

For the above foregoing errors apparent on the face of the record petitioner prays that the order and decree herein rendered be reversed and that the decree and order of the United States District Court in and for the Western District of Washington, Northern Division, be set aside and that there

be judgment allowing the Writ of Habeas Corpus.
 POE and FALKNOR,
 Attorneys for Petitioner.

Office and Postoffice Address:
 405 New York Building,
 Seattle, Washington.

Received a copy of the within assignment this
 3d day of July, 1922.

THOS. P. REVELLE,
 Attorney for U. S. by E. D. Dutton.

[Endorsed]: Filed in the United States District
 Court, Western District of Washington, Northern
 Division, July 3, 1922. F. M. Harshberger, Clerk.
 By S. E. Leitch, Deputy. [20]

United States District Court, Western District of
 Washington, Northern Division.

May, 1922, Term.

No. 6699.

In the Matter of the Application of ELI
 ROUSSEAU, for a Writ of Habeas Corpus.

Order Allowing Appeal.

Eli Rosseau, the petitioner herein, by his counsel
 having presented a petition for an appeal herein
 together with an Assignment of Errors.

NOW, THEREFORE, IT IS HEREBY OR-
 DERED that the appeal be allowed as prayed for.

IT IS FURTHER ORDERED that said Peti-

tioner be *enlarged* upon executing a recognizance with sureties in the sum of five hundred dollars to the satisfaction of the Clerk of this Court, conditioned for his appearance to enter the Judgment of the Circuit Court of Appeals.

Done in open Court this 3d day of July, 1922.

JEREMIAH NETERER,
Judge.

Received a copy of the within order this 3d day of July, 1922.

THOS. P. REVELLE,
Attorney for United States.
E. D. Dutton.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 3, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [21]

United States District Court, Western District of
Washington, Northern Division.

No. 6699.

In the Matter of the Application of ELI
ROUSSEAU, for a Writ of Habeas Corpus.

**Order Directing Transmission of Original Files to
Circuit Court of Appeals, Ninth Circuit.**

Upon motion of the attorneys for Eli Rousseau the petitioner above named, consented to by the attorneys for Luther Weedin, the Respondent

herein, and it appearing to the court that there were filed as a part of the pleadings in this cause, to wit; as a part of the return of the respondent to the writ of habeas corpus issued herein, one certain file containing the original documents, correspondence, orders, and other papers constituting the official files of the Department of Labor in the matter of the deportation proceedings before the Department of Labor in the cause of the above-named petitioner, and it further appearing to the Court that it is proper that such original files be sent up on appeal as part of the record and proceedings on appeal for inspection and consideration by the Circuit Court of Appeals, and the Court being further of the opinion that the expense of printing said files in the transcript of record is not necessary to the proper consideration of the appeal or justified by the exigencies of the cause,

IT IS ORDERED that the Clerk of this court be and he is hereby directed to transmit the aforesaid original files to the Circuit Court of Appeals, Ninth Circuit, to be considered by said Court of appeals as a part of the record in this cause, but not to be printed. [22]

DONE in open court this 8th day of July, 1922.

JEREMIAH NETERER,

Judge.

The entry of the foregoing order and the sending up to the Circuit Court of Appeals as a part of

the record in this cause of the files in said order mentioned are in all respects duly approved.

THOS. P. REVELLE

U. S. Atty.,

And JOHN A. FRATER,

Asst. U. S. Atty.,

Attorneys for Respondent Luther Weedin.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 10, 1922. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [23]

United States District Court, Western District of
Washington, Northern Division.

No. 6699.

In the Matter of the Application of ELI
ROUSSEAU, for a Writ of Habeas Corpus.

Praeceptum for Transcript of Record.

To the Clerk of the Above-entitled court:

You will please prepare typewritten transcripts of record in the above-entitled cause on appeal and file the same in the United States Circuit Court of Appeals for the Ninth Circuit, the said record to comprise the following papers:

- (1) Petition of applicant for writ of habeas corpus.
- (2) Order to show cause thereon.
- (3) Return of order to show cause.
- (4) Decision of the court.

- (5) Order denying petition for writ of habeas corpus.
- (6) Notice of appeal, and petition for allowance thereof.
- (7) Assignment of errors.
- (8) Order allowing appeal.
- (9) Citation.
- (10) Order directing the sending up of Department of Labor's files as a part of the record.
- (11) This praecipe.

Dated this 3d day of July, 1922.

POE and FALKNOR,
Attorneys for Petitioner.

I hereby acknowledge service of copy of the foregoing praecipe waiving the right to request the insertion of any other matters than those incorporated in the foregoing praecipe and stipulating that the proceedings, papers and orders and documents included in said praecipe constitute a full and sufficient record upon appeal.

THOS. P. REVELLE and
JOHN A. FRATER.

Attorneys for Respondent,
Luther Weedin. [24]

United States District Court, Western District of
Washington, Northern Division.

No. 6699.

In the Matter of the Application of ELI
ROUSSEAU, for a Writ of Habeas Corpus.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

United States of America,
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court, for the Western District of Washington, do hereby certify this typewritten transcript of record consisting of pages numbered from 1 to 24, inclusive, to be a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal herein from the judgment of the said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred, and paid in my office by or on behalf of the petitioner and appellant herein, for making record, certificate or return to the United

States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause to wit: [25]

Clerk's fee (sec. 828, R. S. U. S.), for making

record, certificate or return 56 folios at 15c 8.40

Certificate of Clerk to Transcript of Record 4

folios at 15c60

Seal to said Certificate20

Certificate of Clerk to Department of Labor

Files 2 folios at 15c30

Seal to said Certificate20

I hereby certify that the above cost for preparing and certifying record amounting to \$9.70, has been paid to me by attorneys for petitioner and appellant.

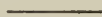
I further certify that I hereto attach and herewith transmit the original Citation issued in this cause.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said District Court at Seattle, in said District, this 24th day of July, 1922.

[Seal]

F. M. HARSHBERGER,

Clerk United States District Court. [26]



United States District Court, Western District of Washington, Northern Division.

May, 1922, Term.

No. 6699.

In the Matter of the Application of ELI ROUSSEAU, for a Writ of Habeas Corpus.

Citation on Appeal.

The President of the United States to Luther Weedin, Commissioner of Immigration, Respondent herein, and to Thomas P. Revell, United States Attorney, and John Frater, Assistant United States Attorney, Attorneys for said Respondent, GREETING:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the 9th Circuit to be held in the city of San Francisco in the state of California, within thirty days from the date of this Writ, pursuant to an appeal filed in the Clerk's office of the District Court of the United States for the Western District of Washington, Northern Division, wherein Eli Rousseau, is petitioner, and Luther Weedin, United States Commissioner of Immigration for the District of Washington is respondent, to show cause, if any there may be, why the Judgment in such Appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

WITNESS the Honorable JEREMIAH NETERER, Judge of the United States District Court in and for the Western District of Washington, Northern Division, this 3d day of July, 1922.

JEREMIAH NETERER,

Judge.

Service of the within citation and receipt thereof admitted this 3d day of July, 1922.

THOS. P. REVELLE,
Attorneys for Respondent,
Luther Weedin.

C. PHILBROOK,
Clerk. [27]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 3, 1922. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

[Endorsed]: No. 3900. United States Circuit Court of Appeals for the Ninth Circuit. Eli Rousseau, Appellant, vs. Luther Weedin, as Commissioner of Immigration for the District of Washington, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed July 27, 1922.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P O'Brien,
Deputy Clerk.